IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 32967 of 2007(Y)

PETITIONER:

JOY K., ASST.SUB INSPECTOR (RTD.),
S/O. THE LATE C.K.KURIAN,
AGED 56 YEARS, MULAMOOTTIL HOUSE,
MUTTAMBALAM VILLAGE, KOTTAYAM DISTRICT.

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ
SRI.ANOOP JOSEPH
SRI.ANOOP.V.NAIR
SRI.ABHILASH AKBAR
SRI.T.B.SIVAPRASAD

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA, DEPARTMENT OF HOME, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **DIRECTOR GENERAL OF POLICE, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**

3. **COMMANDANT, OFFICE OF THE COMMANDANT KAP-5 BATTALION, MANIYAR, PATHANAMTHITTA.**

4. **SUPERINTENDENT OF POLICE, RAILWAYS, THYCAUD, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 32967 of 2007

Dated this the 7th November, 2007

J U D G M E N T

Petitioner retired as an Assisant Sub Inspector of Police on 31.07.2004. His grievance is that retirement benefits due to him are yet to be disbursed to him.

2. In W.P (C) No.26766 of 2007 and connected cases, this Court has taken the view that DCRG due to a pensioner cannot be withheld beyond a period of 3 years from the date on which he becomes a pensioner even if disciplinary proceedings are pending on that day. This is, of course, subject to the exception where a liability has been fixed on the pensioner. In the present case, according to the petitioner, no liability has been fixed.

3. After hearing both sides, this Writ Petition is disposed of directing the 2nd respondent to take appropriate action on Exhibits P5 and P8 regarding the retirement benefits due to the petitioner by way of DCRG and pension within a period of one month from the date of receipt of a copy of this Judgment. It is made clear that if any liability has been fixed within a period of 3 years from the date of retirement of the petitioner, then the

liability as such can be adjusted against the DCRG to be disbursed to the petitioner. In so far as the pension is concerned, it is further made clear that pending completion of the disciplinary proceedings, which is still pending, petitioner will be entitled to provisional pension. Regular pension may be sanctioned after the completion of the disciplinary proceedings.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007